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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,682	08/25/2003	Jon Claude Russell Bennett	D3056E	3783

2774 7590 03/21/2007  
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WESTFIELD, NJ 07090

EXAMINER
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HAN, CLEMENCE S

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/648,682

Applicant(s)

RUSSELL BENNETT, JON  
CLAUDE

Examiner

Clemence Han

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 1, the phrase "a recipient" in line 5 renders the claim indefinite because it is unclear whether it is the same limitation as "a recipient" in line 4 or not.
4. Claim 5 recites the limitation "the recipient network device" in line 2. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 6 recites the limitation "the time stamp" in line 2. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 7 recites the limitation "the recipient network device" in line 2. There is insufficient antecedent basis for this limitation in the claim.
7. Regarding claim 12 and 13, the phrase "a recipient device" in line 2 renders the claim indefinite because it is unclear whether it is the same limitation as "a recipient network device" in claim 4 line 2 or not.

8. Regarding claim 14, the phrase "a recipient" in line 7 renders the claim indefinite because it is unclear whether it is the same limitation as "a recipient" in line 6 or not.

9. Claim 17 recites the limitation "the recipient network device" in line 5. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 18 recites the limitation "the recipient network device" in line 2. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 19 recites the limitation "the time stamp" in line 2. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 20 recites the limitation "the recipient network device" in line 2. There is insufficient antecedent basis for this limitation in the claim.

13. Regarding claim 25 and 26, the phrase "a recipient processor" in line 1 renders the claim indefinite because it is unclear whether it is the same limitation as "a recipient network device" in claim 17 line 1 or not.

14. Regarding claim 25 and 26, the phrase "a recipient device" in line 2 renders the claim indefinite because it is unclear whether it is the same limitation as "a recipient network device" in claim 17 line 2 or not.

15. Regarding claim 27, the phrase "a recipient" in line 5 renders the claim indefinite because it is unclear whether it is the same limitation as "a recipient" in line 4 or not.

***Claim Rejections - 35 USC § 102***

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

17. Claim 1-4, 6, 9, 10, 14-17, 19, 22, 23 and 27 are rejected under 35 U.S.C. 102(a) as being anticipated by McGregor (IPMP draft-mcgregor-ipmp-00.txt).

Regarding claim 1, 14 and 27, McGregor teaches a method for performing a measurement in a network comprising: creating an Internet Protocol Measurement Protocol (IPMP) packet by a measurement host; and including in the IPMP packet instructions for a recipient of the IPMP packet (3.1 in page 10), said instructions including an instruction to a recipient to process data included in a predetermined field in the IPMP packet as a data packet (optional Performance Data in Page 6).

Regarding claim 2 and 15, McGregor teaches encapsulating the IPMP packet in an Internet Protocol (IP) datagram and a predetermined link layer protocol (3.1 in page 10).

Regarding claim 3 and 16, McGregor teaches sending the IPMP packet into the network from the measurement host (3.1 in page 10).

Regarding claim 4 and 17, McGregor teaches identifying the IPMP packet upon receipt by a recipient network device; and examining a contents of the IPMP packet for instructions before forwarding the IPMP packet by the recipient network device (3.2 and 3.3 in page 10-11).

Regarding claim 6 and 19, McGregor teaches said instructions include an instruction to insert additional data providing further details about the time stamp (3.3.1 in page 11).

Regarding claim 9 and 22, McGregor teaches analyzing by the measurement host information included in one or more of the following: a reply, an absence of a reply, a delay between the IPMP packet and an IPMP echo reply packet, a value of a time to live value in an IPMP echo reply packet, a path record, and a presence of one or more errors in an IPMP echo reply packet (3.1 in page 10 and the last paragraph in page 2).

Regarding claim 10 and 23, McGregor teaches the instructions in the IPMP packet include a time to live value to be decremented by each recipient of the IPMP packet until the time to live value reaches zero, in which case one or more predetermined actions will occur (Returned TTL in page 3).

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claim 5, 8, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGregor in view of Minami et al. (US Pub. 2004/0062267).

Regarding claim 5 and 18, McGregor teaches inserting a time stamp (3.3.1 in page 11). McGregor, however does not teach said instructions include an instruction to insert a time stamp by the recipient network device. Minami teaches the instructions include an instruction to insert a time stamp by the recipient network device [0563]. It would have been obvious to one skilled in the art to modify McGregor to have instruction on whether to include a time stamp or not as taught by Minami in order to process the packet faster by avoiding unnecessary step.

Regarding claim 8 and 21, McGregor teaches inserting a path record (3.3.1 in page 11). McGregor, however does not teach said instructions include an instruction to insert a path record by the recipient network device. Minami teaches the instructions include an instruction to insert a path record by the recipient network device [0702]. It would have been obvious to one skilled in the art to modify McGregor to have instruction on whether to include a path record or not as taught by Minami in order to process the packet faster by avoiding unnecessary step.

#### ***Allowable Subject Matter***

20. Claim 7, 11-13, 20 and 24-26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (571) 272-3158. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone

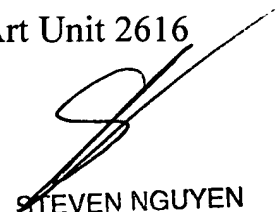


number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

C. H.

Clemence Han  
Examiner  
Art Unit 2616



STEVEN NGUYEN  
PRIMARY EXAMINER